

HOUSE BILL NO. 328

INTRODUCED BY B. TSCHIDA

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT CONSENT TO PHYSICIAN AID IN DYING IS NOT A DEFENSE TO A CHARGE OF HOMICIDE; AMENDING SECTION 45-2-211, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 45-2-211, MCA, is amended to read:

**"45-2-211. Consent as a defense.** (1) The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense.

(2) Consent is ineffective if:

(a) it is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense;

(b) it is given by a person who by reason of youth, mental disease or defect, or intoxication is unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense;

(c) it is induced by force, duress, or deception; or

(d) it is against public policy to permit the conduct or the resulting harm, even though consented to.

(3) (a) For the purposes of subsection (2)(d), physician aid in dying is against public policy, and a victim's consent to physician aid in dying is not a defense to a charge of homicide against the aiding physician.

(b) For the purposes of this subsection (3), "physician aid in dying" means an act by a physician of prescribing a lethal dose of medication to a patient that the patient may self-administer to end the patient's life. The term does not include an act of withholding or withdrawing a life-sustaining treatment or procedure authorized pursuant to Title 50, chapters 9 and 10."

NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2015.

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